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In re Application of:
SMALL, David, B., et al.
U.S. Application No.: 10/758,779
Filing Date: 16 January 2004
Attorney's Docket No.: 9968-23U1
For: INTERACTIVE BOOK READING
SYSTEM USING RF SCANNING
CIRCUIT

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This decision is issued in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)" filed 16 January 2004. Applicants have paid the required petition fee.

BACKGROUND

International application PCT/US02/14745 became abandoned with respect to the United States under 35 U.S.C. 371(d) at midnight on 11 November 2003 (thirty days after the priority date)

On 16 January 2004, applicants filed the present application under 35 U.S.C. 111(a) as a continuation of international application PCT/US02/14745, and the petition to revive considered herein. The petition to revive was filed for the purpose of establishing continuity between the international application and the present continuation application. Upon the receipt of the submission, the USPTO initiated a separate national stage application file for the international application; this national stage file was assigned application number 10/484,344.

DISCUSSION

All the requirements for revival under 37 CFR 1.137(b) have been submitted. The petition states that "the delay in filing such a U.S. National Phase application or such a U.S. continuation application was inadvertent and resulted from a breakdown in communication between the Applicant and the undersigned representative. The petition is being filed under 37 CFR 1.137(b), as the abandonment was unintentional." This statement is interpreted as the statement required under 37 CFR 1.137(b)(3), that is, a statement that "the entire delay in filing the required reply from the due date of the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional." If this is not a correct interpretation of the petition, applicants must inform this Office immediately.

The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP section 711.03(c). International application PCT/US02/14745 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/758,779.

Applicant's 16 January 2004 submission did not indicate the intent to initiate a separate national stage application in addition to the present continuing application. Accordingly, U.S. application file 10/484,344, created by the USPTO as a national stage of PCT/US02/14745 upon receipt of the present petition to revive, is appropriately discontinued.

CONCLUSION

Applicants' petition to revive the application under 37 CFR 1.137(b) is **GRANTED**.

International application PCT/US02/14745 is being revived for purposes of continuity only, and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application number 10/758,779.

As discussed above, U.S. application number 10/484,344 will be discontinued. All future correspondence with respect to this application should be directed to application number 10/758,779.



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